

REMARKS

This communication is submitted in response to the Office Action dated September 28, 2006.

Claims 1-28 are pending in the subject patent application, with claims 1-10, 12-23, 25, 27 and 28 being amended herewith. Claims 11, 24 and 26 have not been changed relative to their immediate prior version. Claims 29-46 were previously canceled.

Support for the amended claims is found throughout the specification as originally filed, and the amended claims do not introduce any new matter.

The specification has been amended to incorporate language consistent with the amended claims, and the amendments to the specification do not introduce any new matter.

Reconsideration of the subject patent application is respectfully requested in view of the foregoing amendments and the following remarks.

The objection to claims 27 and 28 is believed to be addressed and overcome with the present amendment, since claims 27 and 28 have been amended to provide antecedent basis for "said touch screen". The objection to claims 27 and 28 should thusly be withdrawn.

The rejection of claims 1-14 and 16 as being unpatentable over the Digitimer, Ltd., D185 Brochure (six pages) dated 05/08/2001 (hereinafter referred to as Digitimer Brochure), and the rejection of claims 15 and 17-28 as being unpatentable over the Digitimer Brochure in view of the "Viasys Healthcare, Nicolet Viking Select Multi-Mode Program Plus (MMP Plus) User Guide" (hereinafter referred to as Viking Select User

Guide) are respectfully traversed for the following reasons.

Independent claim 1 recites “an activator for said stimulator actuable by a user of said intraoperative neural monitoring system to start delivery of said electrical stimulation; and a mode selector for said stimulator having a monophasic mode setting selectable by a user ..., prior to actuation of said activator, to set said stimulator to deliver said complete cycle of monophasic electrical stimulation in response to actuation of said activator to start delivery of said electrical stimulation, and having a biphasic mode setting alternatively selectable by a user ..., prior to actuation of said activator, to set said stimulator to alternatively deliver said complete cycle of biphasic electrical stimulation in response to actuation of said activator to start delivery of said electrical stimulation.” The Digitimer Brochure does not teach or suggest a mode selector having the features recited in independent claim 1, much less a mode selector that operates in combination with an activator as recited in claim 1.

The Digitimer Brochure (page 1) discloses various accessory components for use with the D185 multi-pulse stimulator (page 2). Pages 3-6 of the Digitimer Brochure pertain to a different version of the stimulator, i.e. the D185-Mark II, which appears to incorporate built-in components to provide the capabilities that the accessory components provide to the D185 stimulator. One accessory component, the D185-HB3 headbox, disclosed in the Digitimer Brochure is connected with the D185 stimulator and provides sockets for the connection of MEP stimulating electrodes and SEP recording electrodes. Linked pairs of MEP stimulating electrodes, i.e. anode and cathode, are connected to red and black colored sockets on the headbox. Electrical stimulation from the D185 stimulator is delivered through the D185-HB3 headbox and the MEP

stimulating electrodes. Another accessory component, the D185-CB1, disclosed in the Digitimer Brochure is permanently wired to the D185-HB3 headbox and provides the operator control for the headbox. The D185-CB1 is disclosed in the Digitimer Brochure as having a rocker switch with a setting selectable by an operator or user corresponding to "Normal" polarity in which the MEP stimulating electrode connected to the red socket serves as the anode for the delivery of electrical stimulation, and a setting alternatively selectable by an operator or user corresponding to "Reverse" polarity in which the MEP stimulating electrode connected to the black socket serves as the anode for the delivery of electrical stimulation. The D185-CB1 is also disclosed as having a trigger button which, when pressed by the operator, "initiates a command to the appropriate relay in the headbox and a trigger pulse to the D185". Although not explicitly stated in the Digitimer Brochure, an equivalent rocker switch and an equivalent trigger button appear to be provided directly on the D185-Mark II stimulator (page 5).

Neither the "Normal" nor the "Reverse" polarity settings for the rocker switch of the D185-CB1 is a biphasic mode setting selectable by the operator or user, prior to pressing the trigger button to start the delivery of the electrical stimulation, to set the D185 stimulator to deliver a complete cycle of biphasic electrical stimulation having a first group of a selected number of positive or negative pulses automatically followed by a second group of a selected number of pulses of reverse polarity to the pulses of the first group. Similarly, neither of the polarity settings for the rocker switch on the D185-Mark II stimulator is a biphasic mode setting. Each of the polarity settings for the rocker switch of the D185-CB1 and each of the polarity settings for the rocker switch of the D185-Mark II disclosed in the Digitimer Brochure is a monophasic mode setting in that

selection of either setting, prior to pressing the trigger button, sets the stimulator to deliver electrical stimulation of only the one selected polarity, i.e. anode on red socket or anode on black socket, in response to the trigger button being thereafter pressed. Accordingly, the Digitimer Brochure does not disclose or suggest a mode selector for the D185 stimulator or for the D185-Mark II stimulator having both a monophasic mode setting selectable by a user, prior to pressing the trigger button, to set the stimulator to deliver a complete cycle of monophasic electrical stimulation and a biphasic mode setting alternatively selectable by a user, prior to pressing the trigger button, to set the stimulator to alternatively deliver a complete cycle of biphasic electrical stimulation as characterized in independent claim 1.

In addition to the Digitimer Brochure failing to disclose or suggest a mode selector having both monophasic and biphasic mode settings alternatively selectable prior to actuation, the Digitimer Brochure fails to disclose or suggest any component whatsoever which would enable either the D185 stimulator or the D185-Mark II stimulator to deliver a complete cycle of biphasic electrical stimulation, as defined in claim 1 as a first group of a selected number of positive or negative pulses followed by a second group of a selected number of pulses of reverse polarity, in response to pressing the trigger button to start the delivery of the electrical stimulation. On the contrary, the D185 and the D185-Mark II stimulators are constrained to deliver only monophasic electrical stimulation in response to pressing the trigger button to start the delivery of electrical stimulation from the stimulator. As explicitly disclosed in the Digitimer Brochure, pressing the trigger button on the D185-CB1 initiates a command to the appropriate relay in the D185-HB3 headbox and, therefore, in response to pressing

the trigger button to start the delivery of electrical stimulation, only monophasic electrical stimulation of the polarity governed by "the appropriate relay" can be delivered from the D185 stimulator. It can be fairly inferred from the Digitimer Brochure that the trigger button on the D185-Mark II stimulator operates in the same manner with the exception that the relays are internal to the stimulator itself.

With respect to the recitation in claim 1 pertaining to the stimulator delivering a complete cycle of biphasic electrical stimulation as a first group of a selected number of positive or negative pulses followed by a second group of a selected number of pulses of reverse polarity, the Digitimer Brochure itself does not disclose or suggest the D185 stimulator, even when controlled by the D185-CB1, or the D185-Mark II stimulator as delivering a complete cycle of biphasic electrical stimulation. By itself, the Digitimer Brochure discloses only that the rocker switches can be set to select which electrode serves as the anode for the electrical stimulation delivered by the stimulators, and the delivered electrical stimulation is of one polarity in accordance with the anode selection made with the rocker switch. There are no teachings in the Digitimer Brochure itself of following the delivery of electrical stimulation of one polarity from the stimulator with the delivery of electrical stimulation of the opposite polarity from the D185 stimulator. Rather, the delivery of a complete cycle of biphasic electrical stimulation from the D185 stimulator or from the D185-Mark II stimulator can only be derived from the Digitimer Brochure with the use of impermissible hindsight made possible from the teachings of the subject invention.

With respect to the recitation in claim 1 of the stimulator delivering the first group of pulses automatically followed by the second group of pulses of reverse polarity, the

Examiner relies on case law and, in particular, on In re Venner, 262 F. 2d 91, 120 USPQ 192 (CCPA 1958), to conclude that the claimed invention broadly provides an automated means to replace manual activity which has accomplished the same result. However, as pointed out above, the Digitimer Brochure itself fails to disclose or suggest either the D185 stimulator or the D185-Mark II stimulator accomplishing the result of delivering a first group of pulses followed by a second group of pulses of opposite polarity, much less a first group of pulses automatically followed by a second group of pulses of opposite polarity. Even if the Digitimer Brochure is considered as disclosing manual activity which has accomplished the delivery of a complete cycle of biphasic electrical stimulation from the D185 stimulator or from the D185-Mark II stimulator, the invention recited in independent claim 1 does not merely broadly provide an automated means to replace the manual activity, i.e. pressing the rocker switch, required in the Digitimer system and does not fall within the factual scope of In re Venner. In In re Venner, a pressure valve that was previously actuated manually was actuated automatically by adding a timer and solenoid to actuate the pressure valve. Applying the facts of In re Venner to the present case, the claimed invention cannot properly be considered as broadly providing an automated means to operate the rocker switches that are operated manually in the Digitimer Brochure. In the claimed invention, the rocker switch is not retained and merely provided with components which would operate it automatically instead of manually as was the case in In re Venner. The facts of In re Venner are not sufficiently similar to those in the subject application for the rationale of In re Venner to support the obviousness rejection as is required by the MPEP, Section 2144. It should be also noted that In re Venner is of questionable legal precedent and

has been viewed by legal scholars as being poorly reasoned and/or misinterpreted over the years. See, for example, the dissenting opinion of Justice Stevens in Diamond v. Dehr, 450 US 175 (1981).

As pointed out above, the rocker switch is not an element of the claimed invention, albeit the claimed invention provides for the stimulator to deliver a complete cycle of biphasic electrical stimulation having a first group of a selected number of positive or negative pulses followed by a second group of a selected number of pulses of reverse polarity. Notably, it is set forth in the MPEP, Section 2144.04(II)(B) and is established by legal precedent, In re Edge, 359 F. 2d 896, 149 USPQ 556 (CCPA 1966), that omission of an element and retention of its function is an indicia of unobviousness. Applicability of this precept to the present case further negates the Examiner's reliance on In re Venner and provides actual evidence of non-obviousness of the claimed invention in view of the Digitimer Brochure.

Moreover, broadly providing an automated means to replace the manual activity involved in switching the position of the rocker switches disclosed in the Digitimer Brochure does not make it obvious to provide a mode selector for the D185 or the D185-Mark II stimulators having both a monophasic mode setting and a biphasic mode setting alternatively selectable by a user prior to pressing the trigger button to set the stimulator to deliver a complete cycle of monophasic electrical stimulation or alternatively a complete cycle of biphasic electrical stimulation. Broadly providing an automated means to replace the manual activity involved in switching the position of the rocker switches also does not make it obvious to provide a mode selector to set the D185 or the D185-Mark II stimulators to deliver a complete cycle of monophasic

electrical stimulation and alternatively a complete cycle of biphasic electrical stimulation in response to pressing the trigger button to start delivery of the electrical stimulation.

The invention defined in claim 1 recites features well beyond those necessary to broadly provide an automated means to replace the manual activity involved in switching the rocker switch of the D185-CB1 and the rocker switch of the D185-Mark II stimulator.

In light of the foregoing, independent claim 1 is submitted to be clearly patentable over the Digitimer Brochure and should be allowed along with its dependent claims 2-11.

Dependent claim 3 recites the biphasic mode setting to include “a positive leading biphasic mode setting selectable by the user to set said stimulator to deliver said first group of pulses as positive pulses and includes a negative leading biphasic mode setting alternatively selectable by the user to set said stimulator to alternatively deliver said first group of pulses as negative pulses.” As pointed out above in connection with independent claim 1, the Digitimer Brochure fails to disclose or suggest the D185-CB1 or the D185-Mark II stimulator as having a biphasic mode setting selectable by a user, prior to actuation of the trigger button, to set the stimulator to deliver a complete cycle of biphasic electrical stimulation in response to pressing of the trigger button, much less a positive leading biphasic mode setting and a negative leading biphasic mode setting as recited in claim 3. The positive leading and negative leading biphasic mode settings recited in claim 3, which are selectable by a user prior to actuation of an activator to start delivery of the complete cycle of biphasic electrical stimulation, can only be considered obvious from the Digitimer Brochure using hindsight

reconstruction derived from the teachings of the claimed invention itself.

With respect to dependent claim 5, a stimulation level selector that automatically sets the current amplitude of the pulses of the second group to be the same as the current amplitude of the pulses of the first group in a complete cycle of biphasic electrical stimulation cannot properly be considered obvious from the Digitimer Brochure. There are no teachings or suggestions whatsoever in the Digitimer Brochure of the D185 stimulator or the D185-Mark II stimulator having a stimulation level selector that automatically sets the current amplitude of the pulses in a second group of a selected number of pulses to be the same as the current amplitude of the pulses in a first group of a selected number of pulses that form a complete cycle of biphasic electrical stimulation.

Dependent claim 6 recites a repetition selector for the stimulator, operable by a user prior to actuation of the activator, to set the number of pulses in each of the first group and second group to be 1-8 pulses and to alternatively set the number of pulses in the complete cycle of monophasic electrical stimulation to be 1 to 8 pulses. Claim 7 depends from claim 6 and recites that the repetition selector automatically sets the number of the pulses in the second group to be the same as the number of pulses in the first group in a complete cycle of biphasic electrical stimulation. The effect of dependent claim 6 is to allow the stimulator to be set to deliver a complete cycle of biphasic electrical stimulation having a total number of pulses (first group plus second group) up to two times the total number of pulses that the stimulator can be set to deliver in a complete cycle of monophasic electrical stimulation. The Digitimer Brochure fails to disclose or suggest a repetition selector for the D185 stimulator or the

D185-Mark II stimulator which would allow either stimulator to be set, prior to pressing the trigger button, to deliver a complete cycle of biphasic electrical stimulation having up to two times the total number of pulses for which the stimulator can be set to deliver in a complete cycle of monophasic electrical stimulation as encompassed by claim 6.

Rather, prior to pressing the trigger button, the D185 and the D185-Mark II stimulators can only be set to deliver a single train of 1 to 9 pulses of one selected polarity (Digitimer Brochure, page 3, third paragraph). Furthermore, there are no teachings or suggestions whatsoever in the Digitimer Brochure of a repetition selector that automatically sets the number of pulses in a second group of pulses to be the same as the number of pulses in a first group of pulses in a complete cycle of biphasic electrical stimulation as recited in claim 7. Accordingly, dependent claims 6 and 7 cannot be considered obvious over the Digitimer Brochure.

Dependent claim 8 recites a pulse width selector operable by a user to set the pulses to have a duration in the range of 100 to 500 microseconds. The pulses delivered by the D185 and by the D185-Mark II stimulators are not even disclosed as being adjustable in pulse width, much less being selectable to have a duration in the range of 100 to 500 microseconds. Rather, the pulses delivered by the D185-Mark II stimulator are explicitly disclosed as having a fixed duration of 50 microseconds (Digitimer Brochure, page 3, third paragraph and page 6, Stimulus Output, Pulse Duration), and the Digitimer Brochure does not disclose or suggest the pulses of the D185 stimulator as being adjustable in duration. The rejection of claim 8 as being obvious in view of the Digitimer Brochure is thusly submitted to be clearly improper.

Dependent claim 9 recites the stimulator as delivering the complete cycle of

biphasic electrical stimulation with there being a predetermined fixed interval between the first group of pulses and the second group of pulses of about 2 seconds. After delivering a first group of pulses using either the Digitimer D185 stimulator or the D185-Mark II stimulator, manual operational steps involving the rocker switches and the trigger buttons would have to be performed in order for the stimulators to deliver a second group of pulses of opposite polarity. Therefore, it is practically impossible for the D185 and the D185-Mark II stimulators to deliver a complete cycle of biphasic electrical stimulation with there being a predetermined fixed interval between a first group of pulses and a second group of pulses of opposite polarity, much less a predetermined fixed interval of about 2 seconds as recited in claim 9.

Dependent claim 10 recites a delay selector operable by a user to set the complete cycle of biphasic electrical stimulation to have a delay, in the range of 2 to 4 milliseconds, between successive pulses in each of the first and second group of pulses and to alternatively set the complete cycle of monophasic electrical stimulation to have a delay between successive pulses in the range of 2 to 4 milliseconds. There are no teachings or suggestions whatsoever in the Digitimer Brochure of a delay selector operable by a user to set a delay between successive pulses in each of first and second groups of pulses in a complete cycle of biphasic electrical stimulation and to alternatively set a delay between successive pulses in a complete cycle of monophasic electrical stimulation.

Independent claim 12 recites "an activator for said stimulator actuatable by a user ... completing performance of a multi-step manual actuation procedure with said activator to start delivery of said first group of pulses, said stimulator delivering said

complete cycle of biphasic electrical stimulation in its entirety in response to actuation of said activator to start delivery of said first group of pulses". The feature of an activator as recited in independent claim 12 is not disclosed or suggested by the Digitimer Brochure. As pointed out above, the delivery of monophasic electrical stimulation from the D185 stimulator and from the D185-Mark II stimulator is started by pressing the trigger button, which initiates a command to the appropriate relay.

Pressing the trigger button to initiate the command that starts delivery of electrical stimulation, as explicitly disclosed in the Digitimer Brochure, is a single-step procedure.

In addition, the D185 stimulator and the D185-Mark II stimulator do not and cannot deliver a complete cycle of biphasic electrical stimulation in its entirety in response to pressing the trigger button because, as explicitly disclosed in the Digitimer Brochure, pressing the trigger button initiates a command to the appropriate relay for delivery of one and only one polarity of electrical stimulation. The multi-step manual actuation procedure required of the activator recited in claim 12 does not replace the manual activity involved with pressing a trigger button with an automated means, and the result accomplished with the claimed activator is not the same as the result accomplished with the trigger buttons disclosed in the Digitimer Brochure. Accordingly, the subject invention as claimed in independent claim 12 cannot be governed by In re Venner and cannot properly be considered as broadly providing an automated means to replace manual activity which has accomplished the same result.

In the discussion pertaining to claim 12, the Examiner maintains that automating the delivery of a complete cycle of biphasic electrical stimulation which could be done manually with the D185-CB1 disclosed in the Digitimer Brochure, involves only routine

skill in the art. Applicants respectfully disagree. The fact that Digitimer did not incorporate an automated process in the D185-CB1 accessory component or in the later redesigned D185-Mark II stimulator demonstrates that the automated processes of the claimed invention did not constitute only routine skill and provides further evidence of non-obviousness for the invention claimed in independent claim 12 as well as that recited in independent claim 1. It is submitted, therefore, that independent claim 12 is clearly patentable over the Digitimer Brochure and should be allowed along with its dependent claims 13-16.

Dependent claim 13 recites the activator as being actuatable by a user completing performance of a two-step manual actuation procedure with the activator to start delivery of the first group of pulses. As pointed out above, the Digitimer Brochure discloses that pressing a trigger button initiates the delivery of electrical stimulation of only one selected polarity, and merely pressing the trigger button is not a two-step manual actuation procedure. The additional limitation recited in dependent claim 14 of the activator being actuatable by a user pressing a button of the activator consecutively two times to start delivery of the first group of pulses is clearly not contemplated by the Digitimer Brochure.

Dependent claim 16 recites the additional feature of a mode selector which is not obvious from the Digitimer Brochure for the reasons discussed above in connection with independent claim 1. Claim 16 further recites the activator as being alternatively actuatable by a user completing performance of the multi-step manual actuation procedure with the activator to alternatively start delivery of a complete cycle of monophasic electrical stimulation, and recites the stimulator as delivering the complete

cycle of monophasic electrical stimulation in its entirety in response to actuation of the activator to start delivery of the monophasic electrical stimulation. An activator having the limitations recited in claim 16 is not taught or suggested in the Digitimer Brochure for the reasons discussed above in connection with independent claim 12. Moreover, claim 16 cannot properly be considered obvious over the Digitimer Brochure because the Digitimer Brochure does not disclose or suggest any capability for either the D185 stimulator or the D185-Mark II stimulator to alternatively deliver complete cycles of both monophasic and biphasic electrical stimulation in their entireties in response to pressing the trigger button to start delivery of the electrical stimulation.

Claim 15 depends from claim 13 and stands rejected as being unpatentable over the Digitimer Brochure in view of the Viking Select User Guide. However, the VikingSelect User Guide fails to rectify the foregoing deficiencies of the Digitimer Brochure with respect to claim 13 and its base claim, independent claim 12. Furthermore, the VikingSelect User Guide does not disclose or suggest the feature recited in claim 15 of an activator comprising an activate option and an accept option on a touch screen or the feature of an activator that is actuatable by a user pressing an activate option and thereafter pressing an accept option to start delivery of a first group of pulses in a complete cycle of biphasic electrical stimulation. In the rejection of claim 15, the VikingSelect User Guide is apparently relied on by the Examiner solely for the teaching of a touch screen, but the touch screen of the VikingSelect system does not have an activate option and an accept option comprising an activator, and does not have an activator operable as characterized in claim 15. Accordingly, claim 15 is submitted to be clearly patentable over the Digitimer Brochure in view of the

VikingSelect User Guide.

Independent claim 17 recites “an activator for said stimulator actuatable by a user ... to start delivery of said second form of electrical stimulation from said stimulator; and a mode selector for said stimulator having a plurality of mode settings alternatively selectable by a user... to set said stimulator, prior to actuation of said activator, to deliver a finite cycle of said second form of electrical stimulation in a mode corresponding to the selected mode setting, said mode selector having a positive monophasic mode setting to set said stimulator to deliver a finite cycle of said second form of electrical stimulation in a positive monophasic mode having a selected number of pulses all of said positive phase, a negative monophasic mode setting to set said stimulator to deliver a finite cycle of said second form of electrical stimulation in a negative monophasic mode having a selected number of pulses all of said negative phase, a positive leading biphasic mode setting to set said stimulator to deliver a finite cycle of said second form of electrical stimulation in a positive leading biphasic mode having a first group of a selected number of pulses all of said positive phase automatically followed by a second group of a selected number of pulses all of said negative phase, and a negative leading biphasic mode setting to set said stimulator to deliver a finite cycle of said second form of electrical stimulation in a negative leading biphasic mode having a first group of a selected number of pulses all of said negative phase automatically followed by a second group of a selected number of pulses all of said positive phase.” The features of an activator and a mode selector as recited in claim 17 are not disclosed or suggested by the Digitimer Brochure or by the VikingSelect User Guide considered in any reasonable combination. The Digitimer

Brochure discloses the rocker switch of the D185-CB1 and the rocker switch of the D185-Mark II stimulator as having normal and reverse polarity settings selectable by a user, prior to pressing the trigger button, to set the stimulator to deliver electrical stimulation in either a normal monophasic mode or a reverse monophasic mode of opposite polarity to the normal mode. The Digitimer Brochure fails to provide any teachings or suggestions whatsoever of a mode selector having a mode setting selectable by a user, prior to pressing the trigger button, to set the D185 or the D185-Mark II stimulators to deliver a finite cycle of biphasic electrical stimulation, much less the positive leading and negative leading biphasic mode settings recited for the mode selector in claim 17. A mode selector having the combination of mode settings recited in claim 17 is not necessary or inherent to the D185 and the D185-Mark II stimulators, even if the rocker switch was pressed by an automated means. In rejecting claim 17, the Examiner relies on the VikingSelect User Guide as disclosing a patient interface unit connectible to a power console, but the VikingSelect User Guide fails to disclose or suggest an activator or a mode selector for a stimulator as recited in claim 17. Accordingly, independent claim 17 is submitted to be clearly patentable over the Digitimer Brochure in view of the VikingSelect User Guide and should be allowed along with its dependent claims 18-28.

Dependent claim 19 recites "means for detecting the duration of said pulses of said second form of electrical stimulation and means for terminating delivery of said second form of electrical stimulation automatically when the duration of a pulse of said second form of electrical stimulation is detected to exceed a predetermined duration." Neither the Digitimer Brochure nor the VikingSelect User Guide discloses or suggests

any features corresponding to the means for detecting and the means for terminating as recited in claim 19.

Dependent claim 20 recites a combination of selectable parameters for the first and second forms of electrical stimulation that is not disclosed or suggested by the Digitimer Brochure and the VikingSelect User Guide. In particular, the Digitimer Brochure does not disclose or suggest a finite cycle of a biphasic mode of electrical stimulation where there is a fixed interval of about 2 seconds between the first group and the second group of pulses as discussed above in connection with dependent claim 9. The VikingSelect User Guide does not even pertain to the delivery of a second form of electrical stimulation in a biphasic mode, and claim 20 is clearly patentable over the Digitimer Brochure in view of the VikingSelect User Guide.

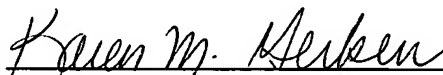
Claim 21 depends from claim 20 and recites a touch screen presenting a plurality of displays including control options for selecting various parameters of the first and second forms of electrical stimulation. The Examiner's reference to the "well known use of touch screens" would not have made it obvious to modify the components disclosed in the Digitimer Brochure, and in view of the VikingSelect User Guide, to include a touch screen with the specific control options recited in claim 21 because the recited control options are not disclosed or suggested by the Digitimer Brochure or the VikingSelect User Guide.

Dependent claim 22 is submitted to be clearly patentable over the Digitimer Brochure in view of the VikingSelect User Guide for the reasons discussed above in connection with independent claim 12 and the fact that the VikingSelect User Guide fails to rectify the deficiencies of the Digitimer Brochure concerning the recited activator.

Dependent claims 27 and 28 recite additional specific control options for the touch screen. Dependent claim 27 recites the touch screen as including a control option for selecting an event threshold by which detected responses above the event threshold are signaled. Dependent claim 28 recites the touch screen as including a control option for setting an artifact delay by which the influence of artifact on detected responses is distinguished. Neither of the control options recited in claims 27 and 28 is disclosed or suggested in the Digitimer Brochure or in the VikingSelect User Guide. The Examiner fails to point out where or how the control options recited in claims 27 and 28 are disclosed or suggested, and the rejection of claims 27 and 28 is submitted to be improper.

In light of the foregoing, all of the claims in the subject application are submitted to be in condition for allowance. Action in conformance therewith is courteously solicited. Should any issues in the subject application remain unresolved, the Examiner is encouraged to contact the undersigned attorney.

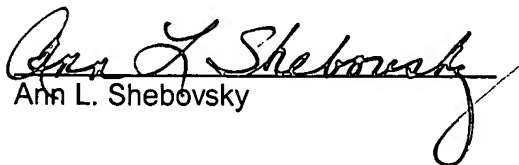
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